

SENATE BILL 1171

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 56; Title 63 and Title 71, relative to alternative
payment systems.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly finds and declares that:

(1) Under alternative payment systems, a healthcare payor, when determining total patient care costs attributed to a physician for an episode of care, shall not include costs that are not under the control of, or available for review and inspection by, that physician;

(2) Under an alternative payment system, a physician may not receive an appropriate share of savings, or may not be liable for a reduction in payment, including reduction by recoupment applied against payments for future services, if the physician's patients have a higher total cost of care as compared to a defined benchmark or range of costs; and

(3) A physician should not be penalized for higher patient care costs when those costs are not under the control of the physician or available for that physician to base decisions on.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, is amended by adding the following as a new part:

71-5-2801.

As used in this part:

(1) "Alternative payment system" means a payment methodology used by a healthcare payor that includes a risk-sharing or gain-sharing component for

a physician who participates in a plan, program, or network offered by the healthcare payor;

(2) "Gain-sharing payment" means an increase in a payment or additional payment made by a healthcare payor to a physician, or a group practice of which the physician is a member, as a result of patient care costs that fall below cost thresholds set by the healthcare payor;

(3) "Healthcare payor" means the state or any health insurance company, health maintenance organization, or managed care organization using an alternative payment system; and

(4) "Risk-sharing payment" means as a result of patient care costs that exceed cost thresholds set by the healthcare payor a:

(A) Reduction in a payment to a physician, or group of which a physician is a member;

(B) Refund of a payment already made to the physician; or

(C) Recoupment applied against payments for future services provided by that physician.

71-5-2802.

A healthcare payor using an alternative payment system, when determining any potential gain-sharing payment or risk-sharing payment for a physician, shall disclose all costs of treatment or other services included within the medical service subject to the alternative payment system. The costs of the treatment or services shall be identified by patient, date of service, provider of service, place of service, service description, service claim code, and amount. Information in this section must be provided, upon request of, and within ten (10) business days thereafter, to the physician as a supplement to the regular provider report provided to the physician related to the alternative payment system.

71-5-2803.

A physician shall use best efforts to maintain the cost information provided by a healthcare payor under § 71-5-2802 as confidential and shall exercise best efforts to maintain the non-disclosure of the cost information with any other physician or healthcare provider who has not provided treatment or services under the episode of care.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.